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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/622,887      | 07/18/2003  | Peter Taiana         | 2821-210WOUS-1      | 2741             |

7590 12/23/2003

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EXAMINER

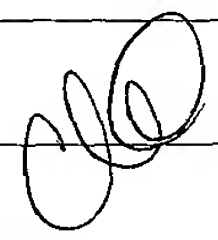
EDWARDS, LAURA ESTELLE

ART UNIT PAPER NUMBER

1734

DATE MAILED: 12/23/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                  |               |   |
|------------------------------|------------------|---------------|---|
| <b>Office Action Summary</b> | Application No.  | Applicant(s)  |   |
|                              | 10/622,887       | TAIANA ET AL. |   |
|                              | Examiner         | Art Unit      |  |
|                              | Laura E. Edwards | 1734          |   |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 44-47 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 44-47 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. §§ 119 and 120

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All   b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☒ Certified copies of the priority documents have been received in Application No. 09/869,736.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                             | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). ____.  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                    | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____. | 6) <input type="checkbox"/> Other: _____                                    |

*Specification*

The disclosure is objected to because of the following informalities:

On page 1, under the heading, "Cross Reference to Related Applications", --now U.S. Patent No. 6,649,209-- needs to be inserted after "July 3, 2001).

On page 2, paragraph number [0008], "Claim 1" should be removed. Claims should not be referenced in the specification.

On page 3, paragraph number [0013] Applicants should reference --Figs. 2A and 2B--.

On page 3, paragraph number [0019] Applicants should reference --Figs. 8A and 8B--.

On page 3, paragraph number [0021] Applicants should reference --Figs. 10A, 10, and 10C--.

Appropriate correction is required.

*Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 44-46 are rejected under 35 U.S.C. 102(b) as being anticipated by Bank et al (Us 4,505,220).

Bank et al teach an apparatus for coating containers comprising an apparatus (12-14) for coating a container with an edible based coating, a first lower conveyor (20) including platforms or pedestals (3), each being selectively actuatable to position a container relative to the coating

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apparatus and a second upper conveyor (20) having platforms or pedestals (3), each being selectively actuable to position a container relative to the coating apparatus (12-14). Inherently, the present apparatus can be used for the purpose of coating a damaged coated container because all that is required is a coating device, platforms or pedestals for holding the damaged coated containers, and two conveyors. Applicants' intended use of the claimed invention to coat a damaged area of a coated container has been given no patentable weight.

With respect to claim 45, see heater (15).

With respect to claim 46, the apparatus for coating includes a carrier or supply unit for supplying the edible based coating to the containers.

Claim 47 is rejected under 35 U.S.C. 102(b) as being anticipated by Eddy (US 4,259,372).

Eddy teaches an apparatus for coating containers comprising an apparatus (4) for coating a container with a sealant, a rotary manipulator or turret (8), a first conveyor (7) for supplying containers to the rotary manipulator, the rotary manipulator rotates the containers to a position proximate the coating apparatus, and a second conveyor (5) for removing containers from the rotary manipulator. Inherently, the present apparatus can be used for the purpose of coating a damaged coated container because all that is required is a coating device, a rotary manipulator, and two conveyors. Applicants' intended use of the claimed invention to coat a damaged area of a coated container has been given no patentable weight.


*Conclusion*

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following patents disclose the state of the art with respect to container coating apparatus: Schneider (US 5,578,128), Bolte (US 4,842,887), Scheiber (US 3,965,854), and Brigham, deceased et al (US 4,018,952).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Laura E. Edwards whose telephone number is (571) 272-1227. The examiner can normally be reached on M-Th/First Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Crispino can be reached on (703) 308-3853. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

  
Laura E. Edwards  
Primary Examiner  
Art Unit 1734

Le  
December 11, 2003